

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Raquel Velasquez	Team: Squad #12	CCRB Case #: 201604158	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/29/2016 12:48 AM	Location of Incident: 244 Linwood Street	Precinct: 75	18 Mo. SOL 10/29/2017	EO SOL 10/29/2017	
Date/Time CV Reported Sun, 05/15/2016 10:58 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 05/15/2016 10:58 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Anibal Torres	2123	947862	GANG BN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Miguel Marte	04050	927135	GANG BN
2. POM John Denicola	03468	947690	GANG BN
3. DT3 Michael Noboa	358	937191	GANG BN

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Anibal Torres	Abuse: Det. Anibal Torres stopped § 87(2)(b)	
B.DT3 Anibal Torres	Abuse: Det. Anibal Torres questioned § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via email on May 15, 2016.

On April 29, 2016, at approximately 12:48 a.m., Det. Anibal Torres, Sgt. Miguel Marte, Det. Michael Noboa, and PO John Denicola, from Brooklyn North Gang, were patrolling near 244 Linwood Street in Brooklyn when Det. Torres stopped § 87(2)(b) (**Allegation A**). Det. Torres also questioned § 87(2)(b) by asking if he had anything on him (**Allegations B**). § 87(2)(b) was arrested for § 87(2)(b) (**Board Review 01**).

There is no video recording of this incident.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) did not file a Notice of Claim regarding this incident (**Board Review 02**).
- § 87(2)(b) § 87(2)(c)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (**Board Review 04**).
- Det. Anibal Torres has been a member of the service for eight years and there are two substantiated CCRB allegations against him. In case no. 201510769, two allegations of abuse of authority (stop and frisk) were substantiated. The CCRB recommended charges and the case is currently assigned to the CCRB's Administrative Prosecution Unit. § 87(2)(g)

Findings and Recommendations

Allegations not pleaded

- § 87(2)(g)

Allegation A: Abuse of Authority- Det. Anibal Torres stopped § 87(2)(b)

Allegation B: Abuse of Authority- Det. Anibal Torres questioned § 87(2)(b)

It is undisputed that Det. Torres stopped and questioned § 87(2)(b). It is also undisputed that § 87(2)(b) was in possession of a gravity knife.

§ 87(2)(b) stated that he got off a train at Fulton Street and Cleveland Street, walked down Fulton Street, and turned right onto Linwood Street. § 87(2)(b) was alone and did not interact with anyone. § 87(2)(b) wore a t-shirt, a jacket, jeans, and a baseball cap, and he held his cellphone in his hands. § 87(2)(b) had a tactical folding knife in his left front jeans pocket and it was clipped to the pocket, but was not visible because his shirt covered the pocket. § 87(2)(b) also had a bag of marijuana in his jacket pocket. A gray minivan with four males in plain clothes pulled up and yelled out, "Hey you, stop right there. We're cops." § 87(2)(b) did not believe that the males were officers because they were not wearing badges. § 87(2)(b) believed he was

going to be mugged so he ran approximately 12 feet until the officers caught up to him. Det. Torres asked § 87(2)(b) if he had anything on him. § 87(2)(b) said he had a knife in his left pocket. Det. Torres reached into the pocket and retrieved the knife. § 87(2)(b) was consequently placed under arrest (**Board Review 05**).

Det. Torres and Sgt. Marte stated that they patrolled the incident location in a minivan for gang activity, due to numerous stabbings. Sgt. Marte drove on Fulton Street, towards Linwood Street, at approximately five miles per hour. The intersection is a commercial area and is well-lit. There was a group of males, including § 87(2)(b) at the intersection engaged in a verbal dispute. Sgt. Marte drove up to the males and stopped about five feet away. The males looked back at the minivan and § 87(2)(b) immediately walked away. Det. Torres and Sgt. Marte did not recall what § 87(2)(b) was wearing (**Board Review 6 and Board Review 7**).

Det. Torres stated that he was seated in the rear passenger seat and that the windows of the minivan were rolled down. Det. Torres noticed an object in § 87(2)(b)'s back right pocket as he walked away. Before turning onto Linwood Street, § 87(2)(b) removed the object from his pocket and held it in his right hand. Det. Torres then noticed that the object was a gravity knife. The knife was black, approximately five inches long, and was folded. Det. Torres told his partners that § 87(2)(b) had a knife and Sgt. Marte turned right on Linwood Street. Det. Torres took his shield out and yelled, "Yo, police. Let me talk to you for a second." § 87(2)(b) fled and ran approximately ten feet before Det. Torres caught up to him. Det. Torres handcuffed § 87(2)(b) and retrieved the knife from his pocket. Det. Torres also frisked and searched § 87(2)(b) incident to his arrest, and found marijuana in his top jacket pocket. Before placing him in the minivan, Det. Torres asked § 87(2)(b) if he had anything else on him. § 87(2)(b) responded no (**Board Review 06**).

Sgt. Marte stated that he did not observe the knife, but given Det. Torres' observation, § 87(2)(b) was considered under arrest for criminal possession of a weapon. Sgt. Marte did not recall whether the windows of the minivan were down (**Board Review 07**).

Det. Torres stated that he stopped § 87(2)(b) to place him under arrest and questioned him incident to his arrest. Additionally, he and Sgt. Marte both stated that § 87(2)(b) was engaged in a verbal dispute with individuals in a high crime area immediately prior to walking away upon seeing the police vehicle, which would have provided them with reasonable suspicion. § 87(2)(b) denied being with anyone else and he acknowledged having a gravity knife, but he denied exposing it and stated that it was not visible. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Squad: 12

Investigator: _____

Signature Print Date

Squad Leader: _____
Title/Signature Print Date